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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,226	05/24/2001	Eiju Katsuragi	16869S-027400US	5895

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EXAMINER

OSMAN, RAMY M

ART UNIT PAPER NUMBER

2157

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

87

Office Action Summary

Application No.

09/866,226

Applicant(s)

KATSURAGI ET AL.

Examiner

Ramy M. Osman

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This communication is responsive to amendment filed May 5, 2005, following a Petition to Revive after premature Abandonment. Claims 1,3,5,7,9,11,13 and 15 were amended.

Response to Arguments

2. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection, as follows below.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,3,5,7,9,11,13 and 15 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In lines 9 and 10 of claim 1, it is not clear what type of processing was performed by the first system. It is unclear if this processing is related to the 'difference control information' or if this is independent processing of information or data. Due to this indefiniteness, it lends that 'processing performed by said first system' has insufficient antecedent basis in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims rejected under 35 U.S.C. 102(b) as being anticipated by Glenn II et al (US Patent No 5,852,724).**

6. In reference to claims 1 and 9, Glenn teaches a data duplicating method and system respectively that connects a first information processing system comprised of a first host computer and a first storage device and at least one second information processing system comprised of a second host computer and a second storage device through a data transfer path and holds the same data in duplicate in said first and second information processing systems by copying first update data generated in said first information processing system to said second information processing system (Abstract, column 2 lines 1-10 and column 3 lines 45-67),

wherein said second information processing system possesses difference control information identifying second update data generated in said second information processing system that takes over and executes a process of said first information processing system when said first information processing system stops operating, and after resumption of operation said first information processing system, said second update data is selectively copied to said first information processing system on the basis of said difference control information (Summary and column 9 lines 15-61).

Art Unit: 2157

8. In reference to claims 2,4,6,8,10,12,14 and 16, Glenn teaches a data duplicating method and system according to claims 1 and 9 respectively, wherein said difference control information is a bit map that indicates the presence or absence of completion of data duplication of said first and second update data at a plurality of individual units of data storage in each of said first and second storage devices (column 5 lines 43-67 and column 7 lines 1-45).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims rejected under 35 U.S.C. 103(a) as being unpatentable over Glenn II et al (US Patent No 5,852,724) in view of Yanai et al (US Patent No 5,544,347).

11. In reference to claims 3,5,11 and 13, Glenn teaches a data duplicating method and system respectively that connects a first information processing system comprised of a first host computer and a first storage device and at least one second information processing system comprised of a second host computer and a second storage device through a data transfer path and holds the same data in duplicate in said first and second information processing systems by copying first update data generated in said first information processing system to said second information processing system (Abstract, column 2 lines 1-10 and column 3 lines 45-67),

wherein said second information processing system possesses difference control information identifying second update data generated in said second information processing system that takes over and executes a process of said first information processing system when said first information processing system stops operating, and after resumption of operation said first information processing system, said second update data is selectively copied to said first information processing system on the basis of said difference control information (Summary and column 9 lines 15-61).

Glenn fails to explicitly teach wherein the respective method and system include asynchronously copying first update data generated in said first information processing system to said second information processing system. However, Yanai teaches a data backup system with different ways of data transfer such as asynchronously copying first update data generated in said first information processing system to said second information processing system (column 3 lines 1-10).

It would have been obvious for one of ordinary skill in the art to modify Glenn by asynchronously copying first update data generated in said first information processing system to said second information processing system as per the teachings of Yanai since this is one of the known ways of transferring backup data.

12. In reference to claims 4,6,12 and 14, Glenn teaches a data duplicating method and system according to claims 1 and 9 respectively, wherein said difference control information is a bit map that indicates the presence or absence of completion of data duplication of said first and second update data at a plurality of individual units of data storage in each of said first and second storage devices (column 5 lines 43-67 and column 7 lines 1-45).

Art Unit: 2157

13. In reference to claims 7 and 15, Glenn teaches a data duplicating method and system respectively that connects a first information processing system comprised of a first host computer and a first storage device and at least one second information processing system comprised of a second host computer and a second storage device through a data transfer path and holds the same data in duplicate in said first and second information processing systems by copying first update data generated in said first information processing system to said second information processing system (Abstract, column 2 lines 1-10 and column 3 lines 45-67),

wherein said second information processing system possesses difference control information identifying second update data generated in said second information processing system that takes over and executes a process of said first information processing system when said first information processing system stops operating, and after resumption of operation said first information processing system, said second update data is selectively copied to said first information processing system on the basis of said difference control information (Summary and column 9 lines 15-61).

Glenn fails to explicitly teach wherein the respective method and system include synchronously copying first update data generated in said first information processing system to said second information processing system. However, Yanai teaches a data backup system with different ways of data transfer such as synchronously copying first update data generated in said first information processing system to said second information processing system (column 3 lines 1-10).

It would have been obvious for one of ordinary skill in the art to modify Glenn by synchronously copying first update data generated in said first information processing system to

said second information processing system as per the teachings of Yanai since this is one of the known ways of transferring backup data.

14. In reference to claims 8 and 16, Glenn teaches a data duplicating method and system according to claims 1 and 9 respectively, wherein said difference control information is a bit map that indicates the presence or absence of completion of data duplication of said first and second update data at a plurality of individual units of data storage in each of said first and second storage devices (column 5 lines 43-67 and column 7 lines 1-45).

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2157

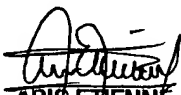
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008.

The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO
August 30, 2005


ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
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